

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,)
) File No. 15CR340
) (JRT/LIB)
Plaintiff,)
)
vs.) Minneapolis, Minnesota
) September 6, 2016
Danny James Heinrich,) 1:00 P.M.
)
Defendant.)
)

BEFORE THE HONORABLE CHIEF JUDGE JOHN R. TUNHEIM
UNITED STATES DISTRICT COURT
(CHANGE OF PLEA)

APPEARANCES

For the Plaintiff: United States Attorney's Office
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For the Defendant: Office of the Federal Defender
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Court Reporter: KRISTINE MOUSSEAU, CRR-RPR
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Proceedings recorded by mechanical stenography;
transcript produced by computer.

1 1:00 P.M.

2
3 (In open court.)

4 THE COURT: You may be seated.

5 You may go ahead.

6 (Defendant enters.)

7 THE COURT: All right. Good afternoon. This is
8 Criminal Case Number 15-340, United States of America
9 versus Danny James Heinrich. We are here today for a
10 change of plea.

11 Counsel, would you note your appearances?

12 MR. SCHLEICHER: Good afternoon, Your Honor.
13 Steve Schleicher, Assistant United States Attorney.

14 MS. ALLYN: Julie Allyn for the United States.

15 MR. SCHLEICHER: Your Honor, I'm also joined at
16 counsel table by the three case agents on the matter: FBI
17 Agent Shane Ball, BCA Agent Ken McDonald and Stearns County
18 Sheriff's Investigator Pam Jensen.

19 THE COURT: Welcome to all of you.

20 Go ahead.

21 MS. ROE: Good afternoon, Your Honor. Katherian
22 Roe on behalf of Mr. Heinrich. Mr. Heinrich is present.

23 MR. ALIGADA: Reggie Aligada on behalf of
24 Mr. Heinrich. He is present.

25 THE COURT: Good afternoon to both of you.

1 Mr. Heinrich, how are you doing today?

2 THE DEFENDANT: All right, Your Honor.

3 THE COURT: All right. Very well.

4 MS. ROE: Your Honor, before we proceed?

5 THE COURT: Yes.

6 MS. ROE: Mr. Schleicher provided us with the
7 original plea agreement. As you noticed, Mr. Heinrich just
8 came in, so he still needs to sign that.

9 THE COURT: All right. Go ahead.

10 **(Counsel confers with defendant.)**

11 MS. ROE: Mr. Heinrich has now executed the
12 agreement, Your Honor.

13 THE COURT: All right. Very well.

14 All right.

15 MR. SCHLEICHER: Your Honor, if I may approach,
16 would you like the agreement at this time?

17 THE COURT: You may. All right.

18 Mr. Heinrich, I understand that you are today
19 going to change your plea to a guilty plea in accordance
20 with the terms of this written plea agreement, is that
21 correct?

22 THE DEFENDANT: That's correct, Your Honor.

23 THE COURT: Okay. Come on over to the lectern
24 for me, please.

25 Mr. Heinrich, before I can accept your guilty

1 plea, I have to make certain findings that are based on the
2 record of this hearing and the record of this case. Among
3 other things, I need to find that you are competent to make
4 this decision, that you fully understand the consequences
5 of a guilty plea, that there are facts which are admitted
6 and true which would support the conviction and that no one
7 has forced you into taking this action today.

8 I'm going to be asking you questions as part of
9 this proceeding. Mr. Schleicher and Ms. Roe may also ask
10 you questions during the hearing. That means you're going
11 to be a witness. I'm going to have you placed under oath
12 for the purpose of giving testimony.

13 THE CLERK: Please raise your right hand.

14 **(Defendant sworn.)**

15 THE DEFENDANT: Yes, I do.

16 THE COURT: All right. Mr. Heinrich, do you
17 understand that you are now under oath in this proceeding?
18 If you do answer any of the questions falsely, you could be
19 prosecuted for that.

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Now, if there is any question I ask
22 that you don't fully understand or that counsel asks you,
23 please say that. We'll try to make the question more clear
24 for you.

25 Also, if you wish to speak privately with Ms. Roe

1 or Mr. Aligada during the course of the hearing, that's
2 perfectly fine. Just step away from the lectern, and you
3 can converse with them outside of our hearing.

4 All right?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: I'm going to start with a number of
7 preliminary questions before we turn to the plea agreement.
8 First, let me have you state your full name for the record.

9 THE DEFENDANT: Danny James Heinrich.

10 THE COURT: How old are you?

11 THE DEFENDANT: 53 years.

12 THE COURT: And where were you born?

13 THE DEFENDANT: I was born in Paynesville,
14 Minnesota.

15 THE COURT: Have you lived in Minnesota your
16 entire life?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: How far did you go in school?

19 THE DEFENDANT: I have a GED that I obtained in
20 1993.

21 THE COURT: All right. You went to, you dropped
22 out of high school?

23 THE DEFENDANT: Yeah. That's correct.

24 THE COURT: During what year?

25 THE DEFENDANT: 10th grade, Your Honor.

1 THE COURT: Do you have any difficulty reading,
2 writing or understanding English at all?

3 THE DEFENDANT: No, Your Honor.

4 THE COURT: Okay. Where have you most recently
5 been employed?

6 THE DEFENDANT: Buffalo Veneer and Plywood in
7 Buffalo, Minnesota.

8 THE COURT: What type of job was that?

9 THE DEFENDANT: We make wood products for the
10 cabinet industry.

11 THE COURT: I see. Okay. How long were you
12 employed there?

13 THE DEFENDANT: Ten plus years.

14 THE COURT: That's in Buffalo?

15 THE DEFENDANT: That's correct, Your Honor.

16 THE COURT: Have you ever been treated for any
17 form of mental disability such as depression or attention
18 deficit disorder, anxiety, any form of mental illness?

19 THE DEFENDANT: No, Your Honor.

20 THE COURT: All right. Have you ever been
21 treated for any form of addiction to drugs or to alcohol?

22 THE DEFENDANT: No, Your Honor.

23 THE COURT: Okay. Do you have any physical
24 issues that are affecting you in any way?

25 THE DEFENDANT: No, Your Honor.

1 THE COURT: Okay. So your mind is clear today?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: And you're ready to proceed?

4 THE DEFENDANT: Yes.

5 THE COURT: There is a document in this case
6 called an indictment. It's the written statement of the
7 charges against you. It has a number of counts involving
8 possession and receipt of child pornography.

9 Have you read through that document, sir?

10 THE DEFENDANT: Yes, I have, Your Honor.

11 THE COURT: Do you have any questions at all
12 about the charges against you?

13 THE DEFENDANT: No, Your Honor.

14 THE COURT: They're clear to you?

15 THE DEFENDANT: Yes.

16 THE COURT: All right. Now, I want to ask you
17 whether you feel that you have had sufficient time to talk
18 about the case, the charges against you and any defenses
19 that you might have with Ms. Roe or Mr. Aligada?

20 THE DEFENDANT: I've had sufficient time.

21 THE COURT: Okay. And have you been fully
22 satisfied with the advice and the assistance that they have
23 provided to you?

24 THE DEFENDANT: Yes, I have.

25 THE COURT: All right. And you have been in full

1 and complete discussion with your attorneys in the process
2 of negotiating this plea agreement, is that correct?

3 THE DEFENDANT: That's correct.

4 THE COURT: Okay. We're going to turn to the
5 plea agreement now. In it, Mr. Heinrich, you are agreeing
6 to plead guilty to Count 24 of the indictment. That
7 charges you with receipt of child pornography in violation
8 of United States law.

9 In return, the United States will ask the Court
10 to dismiss the remaining counts of the indictment at the
11 time of sentencing. Is that what you intend to do today?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: I will ask you orally later on to
14 state that plea, but before we do that, we need to
15 establish that there are facts which are admitted which
16 would support the conviction.

17 I'm going to ask Mr. Schleicher to lead you
18 through that at this point.

19 MR. SCHLEICHER: Thank you, Your Honor, and it's
20 the government's intent to first discuss the facts of
21 conviction for the indictment, the charge itself, and then
22 proceed to the additional factual admissions with respect
23 to relevant conduct.

24 THE COURT: Very well. Go right ahead.

25 MR. SCHLEICHER: Mr. Heinrich, as you heard the

1 Court indicate, you're pleading guilty to Count 24 of the
2 indictment, is that right?

3 THE DEFENDANT: That's correct.

4 MR. SCHLEICHER: And you need to tell the Court
5 in your own words as best you can what you did that makes
6 you guilty of that particular count.

7 Now, Count 24 is a charge of receipt of child
8 pornography. Do you understand that?

9 THE DEFENDANT: I understand.

10 MR. SCHLEICHER: Do you recall that on July 28,
11 2015, law enforcement officers executed a search warrant at
12 your residence?

13 THE DEFENDANT: That's correct.

14 MR. SCHLEICHER: And that was in Wright County,
15 Minnesota, at 55 Myrtle in Annandale, is that true?

16 THE DEFENDANT: That's true.

17 MR. SCHLEICHER: That in fact was your residence,
18 is that right?

19 THE DEFENDANT: That's correct.

20 MR. SCHLEICHER: And you lived there alone?

21 THE DEFENDANT: Yes.

22 MR. SCHLEICHER: During the execution of the
23 search warrant, officers recovered a number of items of
24 evidence, and those items included a computer, which was a
25 Gateway brand desktop computer.

1 Do you recall that?

2 THE DEFENDANT: Yes.

3 MR. SCHLEICHER: That was your computer?

4 THE DEFENDANT: Yes, it was.

5 MR. SCHLEICHER: And they also recovered a
6 printer, which was a Kodak color printer, is that right?

7 THE DEFENDANT: That's correct.

8 Excuse me.

9 MR. SCHLEICHER: Yes.

10 **(Defendant confers with counsel.)**

11 MS. ROE: That's fine.

12 MR. SCHLEICHER: Okay. Now, are you aware that
13 through your attorney that law enforcement, the Bureau of
14 Criminal Apprehension, conducted a forensic examination of
15 the hard drive on the computer?

16 Are you aware of that?

17 THE DEFENDANT: Yes, I am.

18 MR. SCHLEICHER: And they found images of child
19 pornography on the computer. Do you understand that?

20 THE DEFENDANT: Yes.

21 MR. SCHLEICHER: And you knew that there were
22 images of child pornography on the computer, is that right?

23 THE DEFENDANT: That's correct.

24 MR. SCHLEICHER: You knew that because you
25 intentionally obtained those images for the purpose of

1 viewing them, is that right?

2 THE DEFENDANT: That's correct.

3 MR. SCHLEICHER: You obtained these images of
4 child pornography from the Internet, is that right?

5 THE DEFENDANT: That's correct.

6 MR. SCHLEICHER: You knowingly did so in that you
7 used what would be a means and facility of interstate
8 commerce, a computer, to receive child pornography over the
9 Internet, is that right?

10 THE DEFENDANT: That's right.

11 MR. SCHLEICHER: Now, you have not had access to
12 the particular images that law enforcement seized because
13 you are prohibited from doing so, is that right?

14 THE DEFENDANT: That's correct.

15 MR. SCHLEICHER: Since the time of your arrest,
16 correct?

17 THE DEFENDANT: That's correct.

18 MR. SCHLEICHER: You knew what was on the
19 computer generally before your arrest?

20 THE DEFENDANT: Yes.

21 MR. SCHLEICHER: But after, you haven't been
22 shown those particular images, but you have discussed the
23 existence of these images with your defense counsel, is
24 that right?

25 THE DEFENDANT: That's right.

1 MR. SCHLEICHER: Directing you then specifically
2 as to Count 24 of the indictment, Count 24 of the
3 indictment, there was a particular image, and that was
4 saved under the file name LOD398.JPG.

5 Do you understand that?

6 THE DEFENDANT: I understand.

7 MR. SCHLEICHER: And that's just the file name
8 associated with a particular image. According to the BCA
9 forensic examination, this image was received by you
10 through the Internet on the computer on March 1, 2014. Do
11 you have any reason to dispute that date?

12 THE DEFENDANT: No, I don't.

13 MR. SCHLEICHER: You downloaded that particular
14 image from the Internet, is that right?

15 THE DEFENDANT: Yes, I did.

16 MR. SCHLEICHER: And you knew that this was an
17 image of child pornography, correct?

18 THE DEFENDANT: That's correct.

19 MR. SCHLEICHER: And you did not download this by
20 accident or some type of mistake, is that right?

21 THE DEFENDANT: That's right.

22 MR. SCHLEICHER: For the record, I need to
23 describe the particular image, which again you have not had
24 access to, but the image depicts a minor female, meaning a
25 female under the age of 18.

1 She has long, brown, curly hair, lying on a bed
2 on a beige blanket. Her head is resting on a pillow. She
3 is naked, and her genitals are fully exposed for the
4 camera.

5 You're aware through conversations with your
6 attorneys that the government has in fact that image and
7 has identified it, correct?

8 THE DEFENDANT: Yes, I'm aware.

9 MR. SCHLEICHER: And that you received it on
10 March 1, 2014, over the Internet on an interstate
11 communication facility, correct?

12 THE DEFENDANT: That's correct.

13 MR. SCHLEICHER: You agree then that the minor
14 being displayed in the image in this manner was engaging in
15 sexually explicit conduct as the law defines it, is that
16 correct?

17 THE DEFENDANT: That's right.

18 MR. SCHLEICHER: You also understand that the
19 forensic examination of the computer revealed other images
20 of child pornography, meaning other images of children
21 engaged in sexually explicit conduct, correct?

22 THE DEFENDANT: That's correct.

23 MR. SCHLEICHER: And you have no reason to
24 dispute that those images were on your hard drive because
25 you previously downloaded them or retrieved those from the

1 Internet, true?

2 THE DEFENDANT: That's right.

3 MR. SCHLEICHER: In addition, during the
4 execution of the search warrant, investigators recovered
5 several binders of printed material from your house, is
6 that right?

7 THE DEFENDANT: That's right.

8 MR. SCHLEICHER: These binders also contained
9 images of child pornography, is that true?

10 THE DEFENDANT: That's true.

11 MR. SCHLEICHER: You knew that the printed
12 binders of child pornography were there in the residence,
13 is that correct?

14 THE DEFENDANT: That's correct.

15 MR. SCHLEICHER: And they were yours and yours
16 alone?

17 THE DEFENDANT: That's correct.

18 MR. SCHLEICHER: And you created these
19 collections by printing the pictures and putting them into
20 the binders, is that right?

21 THE DEFENDANT: That is right.

22 MR. SCHLEICHER: You understand that by the plea
23 agreement the way the guidelines are calculated, there
24 needs to be a level of the number of images established
25 that you owned, is that right?

1 THE DEFENDANT: That's right.

2 MR. SCHLEICHER: Okay. You do not dispute that
3 you possessed up to 150 images of child pornography between
4 what was in the binders, printed binders, and what was on
5 your computer, correct?

6 THE DEFENDANT: That's correct.

7 MR. SCHLEICHER: And among the images, you would
8 agree that these included images of prepubescent minors
9 under the age of twelve, true?

10 THE DEFENDANT: That's true.

11 MR. SCHLEICHER: They also included images that
12 portrayed what is called sadistic or masochistic conduct
13 with respect to the children. I'm going to define that
14 term for you. You know, specifically as to sadistic and
15 masochistic conduct, images of a minor being penetrated
16 with an object.

17 Do you understand that?

18 THE DEFENDANT: I understand.

19 MR. SCHLEICHER: You also agree that those sorts
20 of images would have been present on your computer or in
21 the binders?

22 THE DEFENDANT: Yes.

23 MR. SCHLEICHER: You do not dispute that what was
24 portrayed in these different images were in fact real
25 children?

1 THE DEFENDANT: No, I don't dispute that.

2 MR. SCHLEICHER: And you would also agree that
3 the images include what we would call images of morphed
4 child pornography, meaning that you actually created
5 certain images by cutting and pasting the photos of what
6 would have at that time been real children onto the nude
7 bodies of other real children?

8 THE DEFENDANT: That's correct.

9 MR. SCHLEICHER: And the resulting image showed
10 then a child engaged in sexually explicit conduct, is that
11 right?

12 THE DEFENDANT: That's right.

13 MR. SCHLEICHER: All right.

14 Your Honor, the United States is satisfied as to
15 the factual basis for the count of conviction and at this
16 time would like to move into the factual basis with respect
17 to the relevant conduct.

18 THE COURT: The Court agrees that there is
19 sufficient factual basis for the conviction under Count 24,
20 and you may move to the additional conduct.

21 MR. SCHLEICHER: Sir, as part of the plea
22 agreement, you understand that you're providing a factual
23 accounting for what happened to Jacob Wetterling on October
24 22, 1989, is that right?

25 THE DEFENDANT: That's right.

1 MR. SCHLEICHER: On October 22, 1989, did you
2 kidnap, sexually assault and murder Jacob Wetterling?

3 THE DEFENDANT: Yes, I did.

4 MR. SCHLEICHER: I need you to tell the Court
5 what happened on that evening beginning around 8:00 p.m. in
6 the city and town of St. Joseph, that area.

7 THE DEFENDANT: I was driving on a road, a
8 dead-end road. I noticed three children on their bicycles
9 with a flashlight. I pulled into a driveway, passed --
10 after they passed me, turned around and faced the direction
11 of the road that they would be coming back on.

12 Approximately 20 minutes or so later, they came
13 back. I stepped out of my car. I put a mask on. I
14 reached for my revolver. I proceeded onto the road. I
15 confronted them. I told them to get into the ditch with
16 their bicycles.

17 They cooperated. They did. I asked their names,
18 their ages.

19 MR. SCHLEICHER: Do you recall what their answers
20 were?

21 THE DEFENDANT: Not right offhand, I don't, no.

22 MR. SCHLEICHER: Do you know now that the three
23 children involved were Jacob Wetterling, Trevor Wetterling,
24 Aaron Larson?

25 THE DEFENDANT: That's correct.

1 MR. SCHLEICHER: You indicated that you took out
2 your revolver. Can you please describe the revolver? What
3 caliber and type was it?

4 THE DEFENDANT: .38 Special, Smith & Wesson, snub
5 nose.

6 MR. SCHLEICHER: After you confronted the
7 children, what did you ask them to do?

8 THE DEFENDANT: I asked -- well, they offered me
9 a tape, and I knocked that down. They tried to shine a
10 flashlight in my face, and I said, No, don't do that.

11 MR. SCHLEICHER: The tape was a videotape?

12 THE DEFENDANT: Yes.

13 MR. SCHLEICHER: That they had rented?

14 THE DEFENDANT: Yes.

15 MR. SCHLEICHER: From the local store?

16 THE DEFENDANT: Yes.

17 MR. SCHLEICHER: Okay.

18 THE DEFENDANT: Yes. Yes.

19 MR. SCHLEICHER: After you knocked it down, what
20 did you say to them?

21 THE DEFENDANT: I told Trevor and Aaron to run
22 away, not look back or I would shoot, and I took Jacob back
23 to my car.

24 MR. SCHLEICHER: What did you do when you took
25 Jacob back to your car?

1 THE DEFENDANT: I handcuffed him and put him in
2 the front passenger seat of my car.

3 MR. SCHLEICHER: Did you handcuff him behind his
4 back?

5 THE DEFENDANT: Yes.

6 MR. SCHLEICHER: After you handcuffed him, did
7 Jacob Wetterling say anything to you?

8 THE DEFENDANT: What did I do wrong?

9 MR. SCHLEICHER: Okay. What did you do after you
10 placed him in your vehicle?

11 THE DEFENDANT: I got into the, into my car, and
12 we drove out of town, out of St. Joe. On the way out of
13 St. Joe, I had the scanner on.

14 A lot of police activity started coming over the
15 radio, so I decided I would head back to my home town of
16 Paynesville.

17 MR. SCHLEICHER: Now, you said a scanner. Can
18 you just briefly describe the scanner?

19 THE DEFENDANT: A Regency 50-channel scanner.

20 MR. SCHLEICHER: For the purpose of listening
21 to --

22 THE DEFENDANT: Listening to police calls.
23 That's correct.

24 MR. SCHLEICHER: Did you instruct Jacob
25 Wetterling to do anything when you were driving --

1 THE DEFENDANT: I --

2 MR. SCHLEICHER: -- on that road?

3 THE DEFENDANT: On the way out of St. Joseph, I
4 told him to duck down, lean forward in the seat. When we
5 got out of St. Joe, I told him he could sit back up.

6 MR. SCHLEICHER: Did he make any statements to
7 you at that time?

8 THE DEFENDANT: No. No, he did not.

9 MR. SCHLEICHER: Could you as best you can please
10 describe the route that you took from the point of the,
11 what would have been the Raiser farm, to the point you
12 ended up?

13 THE DEFENDANT: Got back on the road that the
14 boys were on. We headed not to Main Street, but back to, I
15 don't know, Highway 75, whatever, that runs back to
16 St. Cloud, that direction, but we headed west on that road.

17 And I got on the interstate and headed north to
18 Albany. From Albany, I got off the interstate and hit
19 another country -- county road that went to Roscoe,
20 Minnesota, and then from Roscoe, I headed east or west on
21 23 to Paynesville.

22 MR. SCHLEICHER: Okay. And where specifically in
23 Paynesville did you go?

24 THE DEFENDANT: I went to that -- when I got to
25 Paynesville, before I got to Paynesville, I turned on the

1 sewage pond road. About 100 yards up that road, there is
2 an approach and -- to a field next to a grove of trees.

3 MR. SCHLEICHER: And this area, is there also a
4 gravel pit in the area?

5 THE DEFENDANT: There was then, yes.

6 MR. SCHLEICHER: This was an area with which you
7 were familiar, is that right?

8 THE DEFENDANT: Yes, it is.

9 MR. SCHLEICHER: What happened when you pulled
10 the vehicle into the area near the gravel pit?

11 THE DEFENDANT: I drove as close as I could to a
12 grove of trees. I stopped the car. I got out. I opened
13 the door for Jacob. I unhandcuffed him. I took him over
14 to the edge of the grove of trees.

15 I asked him to undress. I undressed. I touched
16 his penis. He touched my penis. I had him masturbate. In
17 about 20 or so minutes, about a half hour later, he said
18 I'm cold, and I said, Okay. You can get dressed, and I got
19 dressed.

20 MR. SCHLEICHER: Okay. I need to clarify a few
21 things.

22 THE DEFENDANT: Sure.

23 MR. SCHLEICHER: With the touching, this was
24 something you compelled him to do?

25 THE DEFENDANT: Yes.

1 MR. SCHLEICHER: He knew that you were armed, is
2 that right?

3 THE DEFENDANT: That's right.

4 MR. SCHLEICHER: And in terms of any other sexual
5 acts performed by you upon Mr. Wetterling --

6 THE DEFENDANT: No. No, there was not.

7 MR. SCHLEICHER: So there was no penetration?

8 THE DEFENDANT: No penetration.

9 MR. SCHLEICHER: And no forced oral --

10 THE DEFENDANT: No.

11 MR. SCHLEICHER: -- sex?

12 THE DEFENDANT: No, there was not.

13 MR. SCHLEICHER: All right. After you were
14 finished, you indicated that Mr. Wetterling said something?

15 THE DEFENDANT: He said, I'm cold. So I said,
16 Okay. You can get dressed, and I got dressed. On the
17 way I said --

18 Are you taking me home? I said I can't take you
19 all the way home. There is a lot -- you live a town or so
20 away.

21 MR. SCHLEICHER: What was his reaction to that?

22 THE DEFENDANT: He started to cry. I said, Don't
23 cry.

24 MR. SCHLEICHER: Now, before this point, sir, had
25 you noticed any law enforcement in the area?

1 THE DEFENDANT: Yes. On the way back to the car,
2 there was a patrol car that came down the road with no
3 siren with its lights, and it headed east on Paynesville.
4 I panicked. I pulled the revolver out of my pocket. It
5 was never loaded until that point.

6 I, I loaded it with two rounds. I told Jacob to
7 turn around, I had to go to the bathroom. He didn't know
8 what I was doing.

9 MR. SCHLEICHER: You told him that you had to go
10 to the bathroom?

11 THE DEFENDANT: I had to go to the bathroom. I
12 asked him to turn around.

13 MR. SCHLEICHER: Did he do so?

14 THE DEFENDANT: Yes, he did.

15 MR. SCHLEICHER: And then what happened?

16 THE DEFENDANT: I, I, I raised the revolver to
17 his head. I turned my head. It clicked once because it
18 didn't line up, the first chamber.

19 I pulled, pulled the trigger again. It went off.
20 I looked back. He was still standing. He hadn't fallen.
21 I raised the revolver again and shot him again, and that's
22 when he fell to the ground.

23 MR. SCHLEICHER: After Jacob Wetterling fell to
24 the ground, at some point did you check and find that in
25 fact he was dead?

1 THE DEFENDANT: Yes, he was. I did check.

2 MR. SCHLEICHER: Just for clarification, were you
3 under the influence of any drugs or alcohol at the time of
4 this?

5 THE DEFENDANT: No, I was not.

6 MR. SCHLEICHER: So you were sober, correct?

7 THE DEFENDANT: Yes.

8 MR. SCHLEICHER: Okay. And all of your actions
9 that you took were voluntary of your own free will, is that
10 right?

11 THE DEFENDANT: Yes.

12 MR. SCHLEICHER: All right. After you confirmed
13 that Jacob Wetterling was dead, what did you do?

14 THE DEFENDANT: I left him, and I went home.

15 MR. SCHLEICHER: All right. Where specifically?
16 What --

17 THE DEFENDANT: Back to 121 Washburn Avenue, the
18 Plaza Apartments, downtown Paynesville.

19 MR. SCHLEICHER: How long did you remain at your
20 home?

21 THE DEFENDANT: I -- couple hours or so.

22 MR. SCHLEICHER: After a couple of hours passed,
23 did you return to the gravel pit area where Jacob
24 Wetterling was lying?

25 THE DEFENDANT: Yes, I did.

1 MR. SCHLEICHER: What did you do?

2 THE DEFENDANT: I dragged him off about 100 yards
3 off to the north of the site where I shot him.

4 MR. SCHLEICHER: What was your purpose in
5 returning to the site?

6 THE DEFENDANT: To bury him.

7 MR. SCHLEICHER: And for what reason?

8 THE DEFENDANT: To hide the body.

9 MR. SCHLEICHER: Okay. And you said that you
10 dragged Jacob Wetterling's body from the place where you
11 shot him to about 100 yards off?

12 THE DEFENDANT: Yes.

13 MR. SCHLEICHER: Can you describe the area,
14 please?

15 THE DEFENDANT: It would be to the north of the,
16 of the -- where I shot him. 100 yards to the north,
17 northwest -- northeast. Correction.

18 I brought a shovel with me, but it wasn't big
19 enough. So I figured, I remembered there was a
20 construction company next door. So I thought I would go
21 over there and see if I could find a shovel, or else it
22 would have taken me hours to dig the grave with a little
23 shovel.

24 When I got over there, I noticed there was a Gehl
25 or a Bobcat, and I'm familiar with operating one of those,

1 and I remembered where they kept the key. I found the key,
2 and I started it up. I drove back to --

3 I turned the lights on to find out where I had
4 left him, and I found him, and I dug a grave with the
5 Bobcat at that site.

6 MR. SCHLEICHER: Can you, as best you recall,
7 tell us about what time that was that you would have --

8 THE DEFENDANT: It was after midnight.

9 MR. SCHLEICHER: And this was a fairly remote
10 area, is that right?

11 THE DEFENDANT: Yes.

12 MR. SCHLEICHER: After you dug the grave with the
13 Bobcat, what did you do?

14 THE DEFENDANT: I placed Jacob in the grave, and
15 then I covered it back up with the Bobcat.

16 MR. SCHLEICHER: Okay. And was Jacob wearing all
17 of his clothing at the time.

18 THE DEFENDANT: Yes, he was.

19 MR. SCHLEICHER: And can you describe what you
20 recall clothing he was wearing?

21 THE DEFENDANT: His reflective vest, his red
22 jacket, blue sweat pants. Tennis shoes came off when I put
23 him into the grave, so I threw them -- I didn't bury them
24 with him in the grave.

25 MR. SCHLEICHER: Okay. After you covered Jacob's

1 body back up with the Bobcat, you returned the Bobcat to
2 the construction site?

3 THE DEFENDANT: Yes, I did.

4 MR. SCHLEICHER: Did you then return to the site
5 to make any effort to conceal what you did?

6 THE DEFENDANT: Yes, I did. I camouflaged the
7 area with grass and brush. I -- oh, I should say I didn't
8 return with my car. I walked back to the scene then.

9 MR. SCHLEICHER: You had walked back to the scene
10 from your --

11 THE DEFENDANT: From my --

12 MR. SCHLEICHER: -- Paynesville --

13 THE DEFENDANT: From my apartment. That's
14 correct.

15 MR. SCHLEICHER: All right. And then after you
16 returned the Bobcat and camouflaged the site, did you walk
17 back home?

18 THE DEFENDANT: I walked back home and threw his
19 tennis shoes into a ravine about another 100 yards down the
20 road.

21 MR. SCHLEICHER: What was your purpose in
22 removing the shoes and throwing them --

23 THE DEFENDANT: I, I just noticed that I hadn't
24 buried them with him so --

25 MR. SCHLEICHER: All right. And then you

1 returned home?

2 THE DEFENDANT: That's correct.

3 MR. SCHLEICHER: Mr. Heinrich, at some point
4 approximately a year later, did you return to the site
5 where you had buried Jacob Wetterling's body?

6 THE DEFENDANT: Yes, I did.

7 MR. SCHLEICHER: Could you please describe what
8 you saw when you drove by the site?

9 THE DEFENDANT: I didn't drive. I walked back
10 again. I walked back. It was late at night again,
11 probably around midnight, with a flashlight. I noticed --
12 I shined the area and noticed that the grave was partially
13 uncovered.

14 You could see his red jacket.

15 MR. SCHLEICHER: Above the ground?

16 THE DEFENDANT: Above the ground.

17 MR. SCHLEICHER: Did you see anything else in the
18 area that caught your attention that would have been by the
19 grave site? Vegetation or --

20 THE DEFENDANT: Nothing, none at that time --
21 well, yes, there was a tree growing in that -- excuse me.
22 There was a small tree growing in that area or a bush. I
23 don't know. A tree or a bush.

24 MR. SCHLEICHER: All right. Did that cause you
25 concern, that you could see the jacket?

1 THE DEFENDANT: Yes, it did.

2 MR. SCHLEICHER: What did you do?

3 THE DEFENDANT: I, I, I can't remember. I had a
4 bag with me, a garbage bag. I placed as many -- his
5 jacket, his bones, his skull into that bag to move. I
6 figure I've got to move it.

7 MR. SCHLEICHER: You had a shovel with you?

8 THE DEFENDANT: I had an army entrenching tool
9 with me.

10 MR. SCHLEICHER: So you dug up as many of the
11 remains as you could gather?

12 THE DEFENDANT: I never dug any. It was already
13 that uncovered.

14 MR. SCHLEICHER: Okay.

15 THE DEFENDANT: I never dug up anything. I
16 gathered up as much as I could and put it into the bag and
17 transported it across the highway there to his final
18 resting spot.

19 MR. SCHLEICHER: All right. You walked over
20 across the highway to a location of a rural farm in rural
21 Paynesville, is that right?

22 THE DEFENDANT: That's correct.

23 MR. SCHLEICHER: Fairly close to the original
24 place where you had buried Jacob Wetterling the year
25 before?

1 THE DEFENDANT: That's correct.

2 MR. SCHLEICHER: What did you do when you
3 transferred the remains to this farm property?

4 THE DEFENDANT: I found a spot. I dug a hole
5 with the trenching tool about two feet deep. I took his
6 jacket out of the bag.

7 I can't remember what other clothing. Just the
8 jacket I remember, and I put the bones in that hole and
9 then his jacket on top and covered it up and left.

10 MR. SCHLEICHER: Obviously you were arrested
11 sometime after the search warrant was executed at your
12 Annandale residence. So it would have been about 25 years
13 later.

14 Wednesday, August 31, 2016, last week, you were
15 transported in custody by law enforcement to the site where
16 you had buried Jacob's remains for the second time, is that
17 right?

18 THE DEFENDANT: That's correct.

19 MR. SCHLEICHER: And you were in custody the
20 entire time, is that correct?

21 THE DEFENDANT: Yes.

22 MR. SCHLEICHER: Handcuffed?

23 THE DEFENDANT: Yes.

24 MR. SCHLEICHER: And secured.

25 You showed law enforcement the location of that

1 second grave site as best you were able, is that right?

2 THE DEFENDANT: That's correct.

3 MR. SCHLEICHER: And after you pointed out the
4 location of the grave site, you were transported in custody
5 away from the scene and were returned to jail, is that
6 right?

7 THE DEFENDANT: That's correct.

8 MR. SCHLEICHER: And is it fair to say that you
9 acted alone in the kidnap, sexual assault and murder of
10 Jacob Wetterling?

11 THE DEFENDANT: That is correct.

12 MR. SCHLEICHER: At this time, if I could turn
13 your attention then to the date of January 13, 1989, the
14 abduction and sexual assault of Jared Scheierl.

15 Are you prepared to discuss that?

16 THE DEFENDANT: Yes, I am.

17 MR. SCHLEICHER: Now, on January 13, 1989, did
18 you in Cold Spring, Minnesota, Stearns County, abduct and
19 sexually assault Jared Scheierl?

20 THE DEFENDANT: Yes, I did.

21 MR. SCHLEICHER: Who at the time was a young boy,
22 is that correct?

23 THE DEFENDANT: That's correct.

24 MR. SCHLEICHER: Can you please describe what
25 happened between approximately 9:00 and 10:00 that evening

1 in Cold Spring?

2 THE DEFENDANT: I was driving around Cold Spring
3 looking for a child. I came onto a dark street, no street
4 lights. I noticed a boy walking. I stopped my car. I
5 rolled my window down. I asked if he knew where Kramers
6 live.

7 He started to point directions to me. I said
8 could you hold on for a second. I got out of the car. I
9 grabbed him. Opened up my back door to my car. I threw
10 him in. Told him to stay low. I headed out of Cold
11 Spring. I don't know the road, but west out of Cold Spring
12 up a hill.

13 In towards Richmond, I got on a gravel road.
14 Went down this gravel road. Got to a farm place, kind of a
15 winding road to the left. I stopped the car. I got out of
16 the car and got into the backseat. I asked Jared to get
17 undressed, to pull his pants down.

18 I attempted oral, oral, oral inter -- on Jared.

19 MR. SCHLEICHER: Oral sex?

20 THE DEFENDANT: Oral sex on Jared. That didn't
21 work out too good. So I asked him to perform oral sex on
22 me.

23 MR. SCHLEICHER: Did he comply?

24 THE DEFENDANT: Yes, he did.

25 MR. SCHLEICHER: As a result of that, did you

1 ejaculate?

2 THE DEFENDANT: Yes, I did.

3 MR. SCHLEICHER: Did you issue any instructions
4 to Mr. Scheierl?

5 THE DEFENDANT: Yes, I did. I said, Swallow. If
6 you throw up, I'll kill you.

7 MR. SCHLEICHER: All right. Did you attempt anal
8 penetration?

9 THE DEFENDANT: Yes, I did, but I stopped.

10 MR. SCHLEICHER: Okay. After you were done
11 sexually assaulting Jared, what did you do?

12 THE DEFENDANT: I had to climb over to the front
13 seat because it had childproof locks on the doors. I
14 couldn't open the doors, and then I drove back towards Cold
15 Spring, same direction.

16 I stopped on the road that went up this hill. I
17 can't -- I don't know the street. I, I -- well, before
18 that, I told him to give me his pants and his underwear.
19 He could get dressed. That's right. Then I, then I left.

20 MR. SCHLEICHER: You kept those items, the pants
21 and the underwear?

22 THE DEFENDANT: Yes, I did.

23 MR. SCHLEICHER: For what purpose?

24 THE DEFENDANT: Souvenir, I guess.

25 MR. SCHLEICHER: Then what?

1 THE DEFENDANT: Then I drove him back towards
2 Cold Spring. I had him get out of the car. I don't
3 remember asking him to roll around in the snow, but I must
4 have.

5 I told him to run, not to look back or I would
6 kill him, and I got in my car, and I left.

7 MR. SCHLEICHER: And you have had an opportunity
8 to read various accounts of what Jared said happened that
9 day, and generally, are they consistent with your memory?

10 THE DEFENDANT: Yes, they are. They're correct.

11 MR. SCHLEICHER: Had you ever met Jacob
12 Wetterling before the night you abducted him?

13 THE DEFENDANT: No.

14 MR. SCHLEICHER: Had you ever met Jared Scheierl
15 before the night you abducted him?

16 THE DEFENDANT: No, I had not.

17 MR. SCHLEICHER: Your Honor, the government is
18 satisfied with the factual basis as to the relevant conduct
19 incidents.

20 MS. ROE: I have one question before we move on,
21 Your Honor.

22 THE COURT: Go ahead, Ms. Roe.

23 MS. ROE: Mr. Heinrich, you indicated that on the
24 night of January 13, 1989, when you abducted Jared
25 Scheierl, I think you threatened to shoot him a couple of

1 times, is that correct, or to kill him?

2 THE DEFENDANT: That's correct. Yes.

3 MS. ROE: And did you have a gun at that time?

4 THE DEFENDANT: No, I didn't. I didn't acquire a
5 pistol until the following summer.

6 MS. ROE: I have no further questions.

7 THE COURT: Anything else, Mr. Schleicher?

8 MR. SCHLEICHER: No. Thank you, Your Honor.

9 THE COURT: All right. The Court finds a
10 sufficient factual basis for the anticipated upward
11 variance in the sentence in this case.

12 Mr. Heinrich, you're aware that you have certain
13 pending motions in this case. You're challenging certain
14 evidence that was seized during the search warrant and
15 statements that were made to law enforcement. You recall
16 that, correct?

17 **(Counsel confers with defendant.)**

18 THE DEFENDANT: Oh, yes, Your Honor.

19 THE COURT: Okay. And there is also a motion
20 dealing with a change of venue that is still pending as
21 well.

22 You remember that as well?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: Do you understand that by entering a
25 guilty plea today, you're giving up your right to make

1 those challenges and that those motions would be
2 terminated?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: All right. Now I want to just
5 discuss some of the remaining aspects of the plea agreement
6 with you because I want to make sure we all understand the
7 nature of this agreement.

8 Paragraph 4 sets forth the statutory penalties
9 for the crime, the receipt of child pornography. There is
10 a mandatory minimum sentence of five years and a statutory
11 maximum penalty of 20 years.

12 Do you understand that?

13 THE DEFENDANT: Yes, I do.

14 THE COURT: Okay. And following release from
15 prison, there is a supervised release term that is mandated
16 under federal law. In this case, it has to be at least
17 five years, and it can be up to a maximum of life.

18 Do you understand that?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: And by "supervised release," I mean
21 you're under the supervision of a probation officer if you
22 are released, and then you must follow conditions imposed
23 by this Court. If there is a violation of any of those
24 conditions, you can be sent back to prison.

25 Do you understand that?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: The fine is a maximum of \$250,000.

3 There is a mandatory \$100 special assessment, and there may
4 be a restitution award.

5 Do you understand that?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Okay. Now, in paragraph 6, the
8 parties have set forth recommended application of the
9 federal sentencing guidelines in this case, again for Count
10 24.

11 I want to go through those and make sure we all
12 understand how the recommendation has been calculated.
13 Okay?

14 THE DEFENDANT: Yes.

15 THE COURT: There is a base offense level at the
16 beginning of the calculation for receipt of child
17 pornography. That is level 22. There are a number of
18 specific offense characteristics in this case which would
19 raise that level.

20 The first would be actually a decrease because
21 your conduct in this matter was limited to receipt and
22 solicitation of materials, a two-level increase because the
23 material involved prepubescent minors, a four-level
24 increase because the offense involved materials that
25 portray sadistic or masochistic conduct or other depictions

1 of violence.

2 And this deals with one of the images that
3 depicts anal penetration of a minor; a two-level increase
4 because the offense involved the use of a computer, a
5 two-level increase because the number of images were
6 between 10 and 150, and a five-level increase because you
7 engaged in a pattern of activity involving abuse of minors
8 as depicted in or as detailed in the additional relevant
9 conduct discussed today.

10 Do you understand that?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: There likely would be a three-level
13 downward adjustment for acceptance of responsibility. That
14 gives us a total offense level of 35.

15 Based on what the parties know at this time, it's
16 the belief that your Criminal History Category is level I.
17 With an adjusted offense level of 32 with the downward
18 adjustment for acceptance, Criminal History Category I, the
19 guideline range for Count 24 is 121 to 151 months in
20 prison.

21 Do you understand that?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: And you understand how we reached
24 that number?

25 THE DEFENDANT: Yes, I do.

1 THE COURT: Okay. The fine range at that level
2 is \$35,000 up to \$350,000, and the guidelines require at
3 least five years and up to a life term of supervised
4 release.

5 And the parties are agreeing and will recommend
6 jointly to the Court that the facts as set forth today and
7 admitted at the hearing today are grounds for an upward
8 variance.

9 You've discussed that with Ms. Roe, is that
10 correct?

11 THE DEFENDANT: Yes.

12 THE COURT: Okay. And that the recommendation
13 will be the statutory maximum of 240 months in prison. Do
14 you understand that?

15 THE DEFENDANT: I understand that.

16 THE COURT: All right. Now, there is a \$100
17 special assessment which would be payable at sentencing.
18 There is no agreement at this point as to restitution.
19 There is a federal statute which requires victim
20 restitution, and that's a matter that will be discussed
21 later at sentencing.

22 Mr. Heinrich, you are also agreeing to forfeit
23 property that was involved in the commission of this crime.
24 The visual depictions, the -- any property that is
25 traceable to the -- what you obtained from the offense.

1 In particular, the parties are agreeing you'll
2 forfeit the Gateway desktop computer, Model 510XL, and you
3 are agreeing this property is subject to forfeiture because
4 it was used to commit the offense.

5 You understand that?

6 THE DEFENDANT: Yes, I do.

7 THE COURT: Do you anticipate, Mr. Schleicher,
8 any further forfeitures?

9 MR. SCHLEICHER: Not at this time, Your Honor.

10 THE COURT: All right. Now, paragraph 11 is
11 important for us to discuss. You understand, Mr. Heinrich,
12 that you have a right, even when you enter a guilty plea in
13 a case, to appeal the sentence, don't you?

14 THE DEFENDANT: Yes, I do, Your Honor.

15 THE COURT: And you've talked about this right
16 with Ms. Roe and Mr. Aligada?

17 THE DEFENDANT: Yes, I have, Your Honor.

18 THE COURT: You are agreeing in this plea
19 agreement to waive any rights that you have to appeal the
20 sentence unless the sentence exceeds 240 months, is that
21 correct?

22 THE DEFENDANT: That's correct.

23 THE COURT: And the government also is waiving
24 its right to appeal the sentence unless it is less than 240
25 months.

1 Do you understand that?

2 THE DEFENDANT: Yes, I do, Your Honor.

3 THE COURT: All right. You're also agreeing to
4 waive your right to file a later petition, which would be a
5 civil action, which would challenge the sentence or the
6 conviction in this case, except if you have a valid claim
7 for ineffective assistance of counsel, which is not
8 waivable.

9 Do you understand that?

10 THE DEFENDANT: I understand.

11 THE COURT: All right. So you understand that
12 this agreement is a negotiated settlement of a number of
13 matters, including charged and uncharged criminal conduct,
14 correct?

15 THE DEFENDANT: That's correct.

16 THE COURT: Okay. So if there is any reason in
17 this case that your conviction is vacated or your sentence
18 is reduced for any reasons, you and the government are
19 agreeing that all parties are restored to your pre
20 agreement rights.

21 Do you understand that?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: Okay. And you're specifically
24 waiving any applicable statute of limitations to offenses
25 charged in the indictment, and you're agreeing that at that

1 point any statements made to law enforcement and in court
2 pursuant to this agreement can be used against you in a
3 federal prosecution.

4 Do you understand?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: Ms. Roe, you're confident the
7 defendant fully understands these significant rights,
8 correct?

9 MS. ROE: Yes, Your Honor.

10 THE COURT: Okay. Now, paragraph 12, let's
11 discuss that for a moment, Mr. Heinrich.

12 Because of the nature of the crime that you are
13 pleading guilty to, you may be subject, after service of a
14 prison sentence, to civil commitment by state or federal
15 authorities, and there are a number of different statutes
16 that are applicable, and it could be state law or federal
17 law or the law of any other jurisdiction.

18 Do you understand that?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Okay. None of us at this point have
21 any control or any understanding of what might happen at
22 that point in time.

23 You understand that, correct?

24 THE DEFENDANT: Yes. Yes, Your Honor.

25 THE COURT: And that could result in you being

1 confined to a facility after you're released from this
2 sentence.

3 Do you understand that?

4 THE DEFENDANT: I understand.

5 THE COURT: And regardless of that, you still
6 wish to plead guilty as set forth in this plea agreement,
7 is that correct?

8 THE DEFENDANT: Yes, I do, Your Honor.

9 THE COURT: All right. This is the complete
10 agreement.

11 Mr. Schleicher, do you want to make any reference
12 to paragraph 13?

13 MR. SCHLEICHER: I do, Your Honor. Your Honor,
14 the plea agreement that's been executed is a nine-page
15 document, but it contains two attachments which are made
16 part of and incorporated into the plea agreement. They're
17 material conditions of the plea agreement.

18 The first is the joint agreement dated August 29,
19 2016, which was signed by the parties on August 30, 2016,
20 which is Attachment 1. That agreement generally spells out
21 the conditions by which we were able to get to a point
22 where we received location information for the remains and
23 set up what would then eventually become a proffer and a
24 plea.

25 This second attachment, Attachment 2, is the

1 proffer agreement dated and signed September 1, 2016. It
2 also contains material conditions, material conditions
3 binding upon the plea agreement, and further describe how
4 certain information can be used and what manner by law
5 enforcement.

6 So it is the three agreements, the plea agreement
7 and the two attachments, that constitute the entire
8 agreement. As to all three agreements, defense counsel has
9 reviewed those thoroughly with their client, and he was
10 made to understand the terms and conditions, and he signed
11 those agreements as well.

12 The agreement also, and specifically the joint
13 agreement, Attachment 1, bears the signatures of the United
14 States Attorney, as well as the Stearns County Attorney,
15 and all of the conditions contained therein are binding
16 upon the state by her agreement.

17 MS. ROE: Your Honor, if I might?

18 THE COURT: Go ahead.

19 MS. ROE: As is indicated, excuse me, as is
20 indicated in the Plea Agreement and Sentencing Stipulations
21 document that will be filed, the point of this and the two
22 agreements that are attached was to have a global
23 resolution of all the issues and all the matters involving
24 the Jacob Wetterling offense and the Jared Scheierl offense
25 and the child pornography, the federal child pornography

1 charges.

2 That's what the three documents entail.

3 MR. SCHLEICHER: If I could make a record of that
4 as well, Your Honor?

5 THE COURT: Go ahead.

6 MR. SCHLEICHER: The resolution of this as a
7 global agreement will then result in the single count of
8 conviction here in federal court of receipt of child
9 pornography, and there will be no further state prosecution
10 in the matter.

11 The -- in agreement with this resolution includes
12 our law enforcement partners: The Minnesota Bureau of
13 Criminal Apprehension, the Stearns County Sheriff's
14 Department, as well as the Federal Bureau of Investigation,
15 the relevant prosecution authorities, which include Stearns
16 County Attorney Janelle Kendall, the United States Attorney
17 for the District of Minnesota, Andrew Luger, and also
18 through their representatives, the victims and their
19 families, Patty and Jerry Wetterling, as well as Jared
20 Scheierl.

21 THE COURT: All right.

22 Okay. Anything else, Ms. Roe?

23 MS. ROE: No, sir.

24 THE COURT: So to clarify, then, the state
25 officials have agreed that there will be no state

1 prosecution for the crimes committed in 1989, is that
2 correct?

3 MR. SCHLEICHER: It is, Your Honor.

4 THE COURT: All right.

5 Now, Mr. Heinrich, do you understand all of the
6 terms of the plea agreement that we have just gone through?

7 THE DEFENDANT: Yes, I do, Your Honor.

8 THE COURT: Do you have any questions at all
9 about the plea agreement and the two additional documents
10 which you have signed?

11 THE DEFENDANT: No, Your Honor.

12 THE COURT: Okay. Has anyone made any other
13 promises to you in an effort to get you to plead guilty in
14 this case?

15 THE DEFENDANT: No, Your Honor.

16 THE COURT: Anyone tried to force you to plead
17 guilty in any way?

18 THE DEFENDANT: No, Your Honor.

19 THE COURT: You're doing so voluntarily?

20 THE DEFENDANT: Yes.

21 THE COURT: And you believe you're guilty of the
22 federal offense in this case?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: All right. Now, do you understand
25 that this conviction is a felony conviction, correct?

1 THE DEFENDANT: That's correct, Your Honor.

2 THE COURT: And if your plea is accepted by the
3 Court, you're going to be adjudged guilty of this offense,
4 and it may deprive you of valuable civil rights that you
5 have, including the right to vote, the right to hold public
6 office, the right to serve on a jury and the right to
7 possess any kind of firearm.

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: All right. Now, I have to go through
10 some matters to make sure you understand what you're giving
11 up by your guilty plea here today.

12 There is one right that you are not giving up.
13 You have the right to be represented by legal counsel at
14 all stages of this proceeding. If you cannot afford a
15 lawyer, the Court will provide a lawyer for you at all
16 stages, even if you would decide to go to trial, and you're
17 not giving up that right today.

18 Do you understand that?

19 THE DEFENDANT: Yes, I understand.

20 THE COURT: Okay. There are rights that you are
21 giving up. They are rights that are associated with the
22 right to go to trial. You have the right to plead not
23 guilty to the offenses that are charged against you and to
24 continue that plea throughout all proceedings here in
25 federal court.

1 You have a right to have your case heard quickly.
2 If you want to go to trial, the Court will provide a trial
3 date quickly for you. The statutory right is 70 days.
4 This case has lasted a little bit longer for a multitude of
5 reasons, but the point is, if you want to go to trial, you
6 could go to trial right away. That is a right that you
7 have.

8 You have a right to see all the evidence that the
9 prosecutor has and is prepared to use against you, and you
10 have the right to challenge that evidence if you believe
11 it's been secured or taken inappropriately or if there is
12 some other reason why it is inadmissible. Those are rights
13 that you have exercised, and you have challenged, and those
14 are rights that you are giving up today as we discussed
15 earlier.

16 You have a right to have your case heard by a
17 jury, which means that a jury will decide whether you're
18 guilty or not guilty, not a judge, and by "jury," I mean
19 that 40 or 45 individuals randomly drawn from the state of
20 Minnesota would be called in, summoned as we call it.

21 And then you and Ms. Roe and Mr. Aligada have a
22 right to help choose twelve jurors for the case. So you
23 have a right to help choose a fair and impartial jury. The
24 jury in the end will decide whether you're guilty or not
25 guilty.

1 You are presumed innocent of these charges. That
2 presumption means that the burden falls entirely on the
3 prosecutor to come forward with evidence, and the
4 prosecutor must prove you guilty beyond a reasonable doubt
5 on each of the counts before you can be found guilty on all
6 of them.

7 You don't have to present any defense at all.
8 You don't have -- you have no burden to prove during this
9 case. It's the government's burden to prove you guilty,
10 and the government must prove you guilty beyond a
11 reasonable doubt, which is a very, very high standard to
12 meet.

13 You have an absolute right not to testify during
14 the trial. No one can force you to testify. The
15 Constitution protects you from being compelled to testify
16 during a criminal proceeding. You may voluntarily waive
17 that right and testify in your own defense if you wish, but
18 it's your decision and no one else's.

19 You have the right to be present throughout the
20 trial to see and hear the witnesses called, and you have
21 the right to have them cross-examined by your lawyer. You
22 also have a right, in addition to seeing the evidence that
23 the government has, you have a right to collect evidence
24 from third parties, using the Court's subpoena power.

25 You can also use that power to summon witnesses

1 that you would like to have testify for you. These are all
2 rights that you give up when you enter a guilty plea.

3 After the trial is over, the jury would
4 deliberate to determine whether the prosecutor has proven
5 the case beyond a reasonable doubt. If the jury finds that
6 the prosecutor has indeed met that burden and you're found
7 guilty, you have a right to appeal that decision to the
8 Court of Appeals.

9 If you are found not guilty on any of the charges
10 against you, the case is over because the government cannot
11 appeal a jury's not guilty verdict.

12 Now do you understand today, Mr. Heinrich, that
13 by entering a guilty plea, if the Court accepts that plea,
14 then there will be no trial, and you will have given up
15 these rights that I have just described for you?

16 THE DEFENDANT: Yes, I do, Your Honor.

17 THE COURT: Do you have any question about these
18 rights at all?

19 THE DEFENDANT: No, I do not.

20 THE COURT: All right. I'm going to ask
21 Mr. Heinrich in a moment to state orally how he intends to
22 plead.

23 Before I ask him to do that, Mr. Schleicher, is
24 there anything else we should have on the record of this
25 hearing?

1 MR. SCHLEICHER: May I have one moment, Your
2 Honor?

3 THE COURT: Yes.

4 **(Counsel confer.)**

5 MR. SCHLEICHER: Nothing from the United States,
6 Your Honor.

7 THE COURT: All right.

8 Ms. Roe, is there anything else you would like to
9 address?

10 MS. ROE: No, Your Honor. Nothing.

11 THE COURT: Okay.

12 Mr. Heinrich, you are charged in Count 24 of the
13 indictment in this case with the crime of receipt of child
14 pornography in violation of United States law.

15 How do you now plead to that charge, guilty or
16 not guilty?

17 THE DEFENDANT: Guilty.

18 THE COURT: It is the finding of the Court in the
19 case of the United States of America versus Danny James
20 Heinrich that the defendant, Mr. Heinrich, is fully
21 competent. He is capable of entering an informed plea to
22 this charge.

23 Further, the Court finds that Mr. Heinrich is
24 fully aware of the nature of the charge brought against him
25 and that he understands the potential consequences of a

1 guilty plea.

2 Further, the Court finds the guilty plea to be
3 knowing and voluntary and supported by a sufficient factual
4 basis. That finding also includes a factual basis for the
5 anticipated variance, upward variance, for the sentence.
6 The Court will therefore accept Mr. Heinrich's guilty plea,
7 and he is now adjudged guilty of this offense.

8 Further, the Court will accept the plea agreement
9 and its other two supporting documents. The Court will set
10 as a sentencing date in this case Monday, November 21st, at
11 10:00 a.m.

12 Right now, Mr. Heinrich, I will refer you to the
13 United States Probation Office, which will complete a
14 presentence investigation for the Court. This is
15 information that the Court needs in order to make
16 sentencing decisions in this case.

17 It's important. Please cooperate with the
18 probation officer. You may have either or both of your
19 attorneys present with you when you are interviewed by the
20 probation officer. After the investigation has been
21 completed by the probation office, there will be a draft
22 written report.

23 I encourage you to read that report carefully, to
24 go over it carefully with your attorneys. If there is any
25 objection to anything in that report, Ms. Roe or

1 Mr. Aligada can raise those objections with the probation
2 officer.

3 Often we can resolve objections informally. If
4 there are objections that cannot be resolved in that way,
5 Mr. Heinrich, I will resolve them at the sentencing hearing
6 after hearing argument from each side and taking additional
7 evidence if that is necessary.

8 Please remember that at the sentencing hearing
9 you have a right to speak. I will give you that
10 opportunity before I make any final sentencing decisions in
11 this case.

12 Do you have any questions about the process
13 moving forward?

14 THE DEFENDANT: No, Your Honor.

15 THE COURT: All right.

16 Mr. Schleicher, is there anything else that we
17 should address today?

18 MR. SCHLEICHER: I assume the defendant will
19 remain in custody. Other than that, nothing from the
20 government.

21 THE COURT: Yes, he will.

22 Anything from you, Ms. Roe?

23 MS. ROE: No, Your Honor. Nothing further.

24 THE COURT: All right. The Court will order that
25 Mr. Heinrich remain in the custody of the Marshal's Service

1 pending sentencing in this case, and this matter will be
2 continued until Monday, November 21st, for sentencing.

3 Thank you, everyone. The Court is in recess.

4 THE CLERK: All rise.

5 * * *

6 I, Kristine Mousseau, certify that the foregoing
7 is a correct transcript from the record of proceedings in
8 the above-entitled matter.

9
10 Certified by: s/ Kristine Mousseau, CRR-RPR
11 Kristine Mousseau, CRR-RPR
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